

## AIR TRANSPORT SERVICES

*Exchange of notes at Washington February 17, 1945, with text of agreement*

*Entered into force February 19, 1945*

*Annex replaced by annex to agreement of April 10 and 12, 1947 <sup>1</sup>*

*Superseded by agreement of June 4, 1949 <sup>2</sup>*

59 Stat. 1353; Executive Agreement Series 457

*The Canadian Ambassador to the Acting Secretary of State*

CANADIAN EMBASSY  
AMBASSADE DU CANADA

WASHINGTON, D.C.

*February 17, 1945*

No. 46

SIR,

With reference to negotiations that have recently taken place between representatives of the Canadian and United States Governments concerning civil air transport, I have the honour to propose that an agreement be entered into between the two Governments as follows:

### AGREEMENT FOR CIVIL AIR TRANSPORT BETWEEN CANADA AND THE UNITED STATES OF AMERICA

#### ARTICLE I

Pending the coming into force of the International Air Services Transit Agreement done at Chicago on December 7, 1944,<sup>3</sup> each Government grants to the other, in respect of its scheduled international air services, the right to fly across its territory without landing and the right to land for non-traffic purposes.

#### ARTICLE II

The Governments grant the rights specified in the Annex for establishing the international civil air routes and services described in the Annex, whether such services be inaugurated immediately or at a later date at the option of the Government to whom the rights are granted.

<sup>1</sup> TIAS 1619, *post*, p. 441.

<sup>2</sup> TIAS 1934, *post*, p. 492.

<sup>3</sup> EAS 487, *ante*, vol. 3, p. 916.

## ARTICLE III

Each of the air services so described may be placed in operation when the Government to whom the rights have been granted by Article II to designate an airline or airlines for the route concerned has authorized an airline for such route, and the Government granting the rights shall, subject to Article V hereof, take the appropriate steps to permit the operation by the airline or airlines concerned: provided that the airline so designated may be required to qualify before the competent aeronautical authorities of the Government granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this Agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such inauguration shall be subject to the approval of the competent military authorities.

## ARTICLE IV

In order to prevent discriminatory practices and to ensure equality of treatment, the Governments agree that:

(a) Each of them may impose or permit to be imposed on airlines of the other state just and reasonable charges for the use of public airports and other facilities on its territory provided that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services;

(b) Fuel and oil, aircraft stores, spare parts and equipment introduced into the territory of one state by the other state or by nationals of the other state, and intended solely for use by aircraft of such other state shall be accorded national and most-favoured-nation treatment with respect to the imposition of customs and excise duties and taxes, inspection fees or other national duties or charges by the state whose territory is entered: provided, however, that such state may require that such imported materials shall be kept under customs supervision and control;

(c) The fuel and oil, aircraft stores, spare parts and equipment retained on board civil aircraft of the airlines authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the territory of the other state, be exempt from the imposition of customs and excise duties and taxes, inspection fees or other national duties or charges, even though such supplies be used or consumed by such aircraft on flights in that territory;

(d) Neither of them will give a preference to its own airlines against the airlines of the other state in the application of its customs, immigration, quarantine and similar regulations or in the use of airports, airways or other facilities.

## ARTICLE V

The laws and regulations of each state relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the other state, and shall be complied with by such aircraft, upon entering or departing from or while within the territory of that state.

## ARTICLE VI

Each Government reserves the right to withhold or revoke a certificate or permit to an airline of the other state in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of that state, or in case of failure of an airline to comply with the laws of the state over which it operates, as described in Article V, or to perform its obligations under this Agreement.

## ARTICLE VII

This Agreement shall apply to the territory of the continental United States including Alaska, and to the territory of Canada including the territorial waters adjacent to each territory.

## ARTICLE VIII

The aircraft operated by United States airlines shall conform at all times with the airworthiness requirements prescribed by the competent aeronautical authorities of the United States of America for aircraft employed in air transportation of the character contemplated by this Agreement.

The aircraft operated by Canadian airlines shall conform at all times with the airworthiness requirements prescribed by the competent aeronautical authorities of Canada for aircraft employed in air transportation of the character contemplated by this Agreement.

## ARTICLE IX

The competent authorities of the two Governments shall enter into agreements concerning the transportation of mail on the services authorized by this Agreement.

## ARTICLE X

The services authorized by this Agreement and for which rights are specified in the Annex shall be conducted in accordance with the following provisions:

(1) Pending the coming into force of the Interim Agreement on International Civil Aviation done at Chicago on December 7, 1944,<sup>4</sup> they shall be

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<sup>4</sup> EAS 469, *ante*, vol. 3, p. 929.

subject to the applicable terms of the Air Navigation Agreement between Canada and the United States of America effected by an exchange of notes of July 28, 1938;<sup>5</sup>

(2) Additional stops may be made in the territory of the state of which an airline is a national at the election of that state, provided that these stops lie in reasonable proximity to the direct route connecting the terminals indicated in the Annex, and subject to the special provisions indicated therein with respect to particular routes;

(3) Holders of through tickets travelling on a through international service may make stopovers at any point where a landing is made even though such landing is made at a point not otherwise authorized for the pick-up and discharge of traffic;

(4) Future proposals for services between any point in Alaska and any point in Canada west of the 130th meridian shall be initially considered (unless in any particular case the two Governments shall agree to follow a different course) by a representative designated by each Government, whose recommendations shall be transmitted to the two Governments for action;

(5) The routes specified in the Annex shall be open for operation by properly designated airlines at any time during the life of the Agreement. The rights shall not lapse with any failure to exercise them, or any interruption of such exercise.

#### ARTICLE XI

This Agreement supersedes that relating to air transport services effected by an exchange of notes of August 18, 1939,<sup>6</sup> the supplementary arrangement relating to air transport services effected by an exchange of notes of November 29 and December 2, 1940<sup>7</sup> and the exchange of notes of March 4, 1943,<sup>8</sup> which continued in force the supplementary arrangement of November 29 and December 2, 1940.

#### ARTICLE XII

The Annex to this Agreement shall be reviewed from time to time by the competent aeronautical authorities of the two Governments. These authorities may recommend to their respective Governments modifications of the Annex. Such modifications, if approved by both Governments, shall be made effective by exchange of notes.

#### ARTICLE XIII

This Agreement and all contracts connected therewith shall be registered with the Provisional International Civil Aviation Organization.

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<sup>5</sup> EAS 129, *ante*, p. 101.

<sup>6</sup> EAS 159, *ante*, p. 161.

<sup>7</sup> EAS 186, *ante*, p. 202.

<sup>8</sup> 57 Stat. 923; EAS 314.

## ARTICLE XIV

This Agreement shall become effective on February 19, 1945, and shall remain in effect until terminated by mutual agreement or until twelve months after the giving of notice by either Government to the other Government.

ANNEX <sup>9</sup>

A. The airlines designated by the Government of the United States of America may operate on the following routes, with the right to take on and put down passengers, mail and cargo at the Canadian terminals specified:

Boston	—	Moncton
Boston	—	Montreal
New York or	—	Quebec
Boston		
New York	—	{Montreal
		{Ottawa

(Provided that Montreal and Ottawa shall not be served on the same flight)

Washington	—	{Montreal
		{Ottawa

(Provided that Montreal and Ottawa shall not be served on the same flight, and that the last point touched in the United States, if it be other than Washington, shall lie east of the 77th meridian)

Buffalo	—	Toronto
Fargo	—	Winnipeg
Great Falls	—	Lethbridge
Seattle	—	Vancouver
Seattle	—	Whitehorse
Fairbanks	—	Whitehorse.

The service on the route between Buffalo and Toronto may, at the election of the United States Government, be rendered by two airlines. On the other routes service by a single airline only will be authorized.

In addition to the routes listed above, airlines of United States registry will be authorized to stop in Windsor on any route on which they are now or in the future may be authorized by the United States Government to serve Detroit.

B. The airlines designated by the Government of Canada may operate on the following routes, with the right to take on and put down passengers, mail and cargo at the United States terminals specified:

Halifax	—	Boston
Toronto	—	New York
Toronto	—	Cleveland
Toronto	—	Chicago

<sup>9</sup> For annex which replaced this one in 1947, see TIAS 1619, *post*, p. 441.

(No stop will be made on this route at any Canadian point within forty miles of Detroit.)

Port Arthur	—	Duluth
Victoria	—	Seattle
Whitehorse	—	Fairbanks.

A single airline will be authorized for each of the foregoing routes. With respect to the routes between Toronto and Cleveland and Toronto and Chicago no through services will be operated from either point in the United States to points lying beyond the territorial limits of Canada.

In addition to the routes listed above, airlines of Canadian registry will be authorized to stop in Detroit on any route on which they are now or in the future may be authorized by the Canadian Government to serve Windsor.

If these proposals are acceptable to the Government of the United States of America, this note, and your reply thereto accepting the proposals, shall be regarded as placing on record the understanding arrived at between the two Governments concerning this matter.

Accept, Sir, the renewed assurances of my highest consideration.

L. B. PEARSON

The Honourable JOSEPH C. GREW,  
*Acting Secretary of State of the United States,*  
*Washington, D.C.*

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*The Acting Secretary of State to the Canadian Ambassador*

DEPARTMENT OF STATE  
WASHINGTON  
February 17, 1945

EXCELLENCY:

I have the honor to acknowledge your note No. 46 of February 17, 1945, in which you propose that an agreement be entered into between the Governments of the United States of America and Canada relating to civil air transport.

The agreement as proposed in your note is acceptable to the Government of the United States of America. Your note and this reply are regarded as placing on record the understanding arrived at between the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Acting Secretary of State:  
WILLIAM L. CLAYTON

His Excellency  
L. B. PEARSON, O.B.E.,  
*Ambassador of Canada.*